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OFFICE OF PETITIONS

In re Application of
Abrahams and Gragossian
Application No. 10/805,170
Filed: March 19, 2004
Attorney Docket No. 81101/7114
For: A SYSTEM FOR UBIQUITOUS NETWORK
PRESENCE AND ACCESS WITHOUT COOKIES

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)
:
:

This is in response to the petition under 37 CFR 1.47(b), filed October 4, 2004.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 19, 2004 without an executed oath or declaration and filing fees. Accordingly, on June 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on October 4, 2004, petitioner filed a petition for a two month extension of time and required fee; a copy of Employee Patent and Confidential Information Agreements between Sony Electronics, Inc. (Sony) and non-signing inventors Marc D. Abrahams and Seda Gragossian that shows the inventors had a duty to assign rights in the invention to Sony; a declaration executed by Attorney Martin R. Bader on behalf of the non-signing inventors; the surcharge; application filing fees; the petition fee; and the instant petition.

Three declarations of facts accompanied the petition. Carrie Merzbacher, Patent Administrator for Sony, explains that Mr. Abrahams orally refused to execute the declaration for patent application. Nola Hines, employee of a law firm affiliated with the attorneys of record, explains that she mailed two copies of the application papers and declaration and assignment to Mr. Abrahams and that Mr. Abrahams refused to accept both mailing. Barbara Zamorano, employee of a law firm affiliated with the attorneys of record, explains that she twice successfully mailed a copy of the application and declaration and assignment to Mr. Gragossian, but Mr. Gragossian did not reply to requests that he return an executed declaration and assignment.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is signed by Attorney Martin R. Bader on behalf of the non-signing inventors. Unfortunately, Attorney Bader signed the non-signing inventors names in their respective signature blocks. The non-signing inventors' signature blocks should be left blank to avoid ambiguity regarding their execution of the document.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions